

## SENATE BILL NO. 109

INTRODUCED BY COBB

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING ALL STATE GOVERNMENT AGENCIES, INCLUDING THE JUDICIARY, THE LEGISLATURE, AND THE MONTANA UNIVERSITY SYSTEM, TO DEVELOP STRATEGIC PLANS; REQUIRING THE STRATEGIC PLAN TO CONTAIN PERFORMANCE MEASURES; DESCRIBING CRITERIA FOR PERFORMANCE MEASURES; DESCRIBING REQUIREMENTS FOR DATA COLLECTION AND REPORTING; ALLOWING THE LEGISLATIVE AUDIT DIVISION TO PROVIDE CERTAIN INFORMATION; OUTLINING LEGISLATIVE AND AGENCY USE OF PERFORMANCE MEASURES; ELIMINATING EXISTING PERFORMANCE MEASURE REQUIREMENTS FOR THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES; AMENDING SECTIONS 2-15-112, 3-1-702, 5-5-215, 5-11-105, 5-12-205, 5-13-203, AND 20-25-301, MCA; REPEALING SECTIONS 2-15-2221, 2-15-2222, 2-15-2223, 2-15-2224, 2-15-2225, AND 2-15-2226, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Definitions.** As used in [sections 1 through 6], the following definitions apply:

(1) "Agency" has the same meaning as provided in 17-7-102.

(2) "Outcome measure" means a quantifiable indicator of the public and customer benefits derived from actions by an agency.

(3) "Output measure" means a quantifiable indicator of the goods or services that an agency produces.

(4) "Performance measures" means monitoring tools included in an agency's strategic plan that are intended to help guide government and make it accountable.

(5) "Strategic plan" means a planning document, covering up to 5 years, that contains the mission, goals, and objectives that an agency intends to accomplish and the performance measures that will track success in meeting missions, goals, and objectives.

NEW SECTION. **Section 2. Policy -- performance measures -- dissemination.** (1) It is the policy

1 of the legislature that each agency shall adopt comprehensive accountability systems. As part of the  
2 accountability systems, the agency shall develop strategic plans.

3 (2) The performance measures included in a strategic plan must indicate how progress toward the  
4 agency's goals and objectives is succeeding. Performance measures are intended to focus agency efforts in  
5 implementing legislative intent, prioritizing goals and objectives, and allocating resources. Performance  
6 measures must focus on key processes. Each performance measure must be central to the success of the  
7 process being measured. The performance measures must be designed to provide information that is  
8 meaningful and that is useful to decisionmakers.

9 (3) Each agency shall post to the agency's internet website, if an agency website exists, the  
10 performance measures adopted by the agency and information, including analysis, findings, conclusions, and  
11 recommendations, devolving from the performance measures or as otherwise required by [sections 1 through  
12 6]. The performance measures and information posted to the agency's website must be updated at least  
13 annually, before July 1 of each year, and may be updated more frequently if the agency considers an update  
14 to be necessary or advisable.

15  
16 **NEW SECTION. Section 3. Criteria for measurement system.** (1) The agency's system of  
17 performance measures must satisfy the following criteria:

- 18 (a) The system must be result-oriented, focusing on outcome measures and output measures.  
19 (b) The system must be selective, concentrating on the most important indicators of performance.  
20 (c) The system must be useful, providing information that is of value to the agency and decisionmakers.  
21 (d) The system must be accessible and must provide periodic information concerning results.  
22 (e) The system must be reliable, providing accurate and consistent information.

23 (2) Unless otherwise provided by law, performance measures must be developed and revised as part  
24 of the strategic planning process in even-numbered years. The performance measures should not be designed  
25 to report every agency activity but must measure key processes and activities.

26  
27 **NEW SECTION. Section 4. System requirements -- input from legislative audit division.** All  
28 systems described in [section 3(1)] that support performance measure data collection must have effective  
29 controls that provide reasonable assurance that the information is properly collected and accurately reported.  
30 If directed by the legislative audit committee, the legislative audit division may provide information concerning

the accuracy of data collection and reporting.

**NEW SECTION. Section 5. Legislative use of performance measures.** (1) During the interim between legislative sessions, each agency shall report performance data to the appropriate interim committee, as provided for in Title 5, chapter 5, part 2, or statutory committee and to the office of budget and program planning. Interim committees shall use performance data in reviewing an agency's strategic planning documents as the documents relate to prospective legislation.

(2) Whenever reviewing the strategies of agency management in implementing programs authorized by the legislature, the interim committees may provide input on:

- (a) the direct effects of each strategy on agency customers;
- (b) the information that agency managers or legislators need to track or measure progress toward achieving key goals and objectives;
- (c) the performance measures that best reflect the expenditure of the agency's budget; and
- (d) whether the performance measures clearly relate to the agency's missions, goals, objectives, and strategic plan.

**NEW SECTION. Section 6. Agency use of performance measures.** Agency managers shall use performance measures as an integral part of their strategic and operational management for the agency. Performance measures must be derived from the agency's mission, goals, objectives, and strategies, with an emphasis on serving the agency's customers. In the review in even-numbered years, each agency shall assess and propose changes needed to make certain that existing performance measures relate logically to other elements of the strategic plan and provide a focus on serving customers.

**Section 7.** Section 2-15-112, MCA, is amended to read:

**"2-15-112. Duties and powers of department heads.** (1) Except as otherwise provided by law, each department head shall:

- (a) supervise, direct, account for, organize, plan, administer, and execute the functions vested in the department by this chapter or other law;
- (b) establish the policy to be followed by the department and employees;
- (c) compile and submit reports and budgets for the department as required by law or requested by the

1 governor;

2 (d) provide the governor with any information that the governor requests at any time on the operation  
3 of the department;

4 (e) represent the department in communications with the governor;

5 (f) (i) prescribe rules, consistent with law and rules established by the governor, for the:

6 (A) administration of the department;

7 (B) conduct of the employees;

8 (C) distribution and performance of business; and

9 (D) custody, use, and preservation of the records, documents, and property pertaining to department  
10 business.

11 (ii) The lieutenant governor, secretary of state, attorney general, auditor, and superintendent of public  
12 instruction may prescribe their own rules for their departments or offices, and the governor may not prescribe  
13 rules for them.

14 (iii) The rules described in this subsection (1)(f) are limited to statements concerning only the internal  
15 management of the agency and not affecting private rights or procedures available to the public. This section  
16 does not authorize the adoption of any rule as rules are defined in the Montana Administrative Procedure Act.

17 (g) subject to the approval of the governor, establish the internal organizational structure of the  
18 department and allocate the functions of the department to units to promote the economic and efficient  
19 administration and operation of the department. The internal structure of the department must be established  
20 in accordance with 2-15-104(2).

21 (h) subject to law, establish and make appointments to necessary subordinate positions and abolish  
22 unnecessary positions;

23 (i) maintain a central office in Helena for the department and maintain other facilities throughout the  
24 state as may be required for the effective and efficient operation of the department; and

25 (j) comply with the provisions of [sections 1 through 6].

26 (2) Except as otherwise provided by law, each department head may:

27 (a) subject to law, transfer employees between positions, remove persons appointed to positions, and  
28 change the duties, titles, and compensation of employees within the department;

29 (b) delegate any of the functions vested in the department head to subordinate employees;

30 (c) apply for, accept, administer, and expend funds, grants, gifts, and loans from the federal government

1 or any other source in administering the department's functions;

2 (d) enter into agreements with federal, state, and local agencies necessary to carry out the department's  
3 functions; and

4 (e) eliminate positions within the department. If the salary for an eliminated position is not redistributed  
5 as provided for under 2-18-1107, the office of budget and program planning shall increase the department's  
6 appropriation in the second year of the biennium by an amount equal to one-half of the savings resulting from  
7 the elimination of a position. The increased appropriation in the second year of the biennium may be expended  
8 at the discretion of the department head, provided that the expenditure is consistent with the goals and  
9 objectives of the department. The remaining one-half must revert to the original funding source. This subsection  
10 (2)(e) does not apply to an agency allocated to a department in either year of the 2 years of the biennium for  
11 administrative purposes, as provided in 2-15-121."

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13 **Section 8.** Section 3-1-702, MCA, is amended to read:

14 **"3-1-702. Duties.** The court administrator is the administrative officer of the court. Under the direction  
15 of the supreme court, the court administrator shall:

16 (1) prepare and present judicial budget requests to the legislature, including the costs of the  
17 state-funded district court program;

18 (2) collect, compile, and report statistical and other data relating to the business transacted by the courts  
19 and provide the information to the legislature on request;

20 (3) recommend to the supreme court improvements in the judiciary;

21 (4) administer legal assistance for indigent victims of domestic violence, as provided in 3-2-714;

22 (5) administer state funding for district courts, as provided in chapter 5, part 9;

23 (6) administer the judicial branch personnel plan; ~~and~~

24 (7) comply with the provisions of [sections 1 through 6]; and

25 ~~(7)(8)~~ perform other duties that the supreme court may assign."

26  
27 **Section 9.** Section 5-5-215, MCA, is amended to read:

28 **"5-5-215. Duties of interim committees.** (1) Each interim committee shall:

29 (a) review administrative rules within its jurisdiction;

30 (b) subject to 5-5-217(3), conduct interim studies as assigned;

(c) monitor the operation of assigned executive branch agencies with specific attention to the following:

(i) identification of issues likely to require future legislative attention;

(ii) opportunities to improve existing law through the analysis of problems experienced with the application of the law by an agency; ~~and~~

(iii) experiences of the state's citizens with the operation of an agency that may be amenable to improvement through legislative action; and

(iv) the manner in which and the degree to which each agency, as defined in [section 1], has accomplished the policy goals and the technical objectives related to comprehensive accountability systems described in [section 2];

(d) review proposed legislation of assigned agencies or entities as provided in the joint legislative rules;

and

(e) accumulate, compile, analyze, and furnish information bearing upon its assignment and relevant to existing or prospective legislation as it determines, on its own initiative, to be pertinent to the adequate completion of its work.

(2) Each interim committee shall prepare bills and resolutions that, in its opinion, the welfare of the state may require for presentation to the next regular session of the legislature.

(3) The legislative services division shall keep accurate records of the activities and proceedings of each interim committee."

**Section 10.** Section 5-11-105, MCA, is amended to read:

**"5-11-105. Powers and duties of council.** (1) The legislative council shall:

(a) employ and, in accordance with the rules for classification and pay established as provided in this section, set the salary of an executive director of the legislative services division, who serves at the pleasure of and is responsible to the legislative council;

(b) with the concurrence of the legislative audit committee and the legislative finance committee, adopt rules for classification and pay of legislative branch employees, other than those of the office of consumer counsel;

(c) with the concurrence of the legislative audit committee and the legislative finance committee, adopt rules governing personnel management of branch employees, other than those of the office of consumer counsel;

(d) adopt procedures to administer legislator claims for reimbursements authorized by law for interim activity;

(e) establish time schedules and deadlines for the interim committees of the legislature, including dates for requesting bills and completing interim work;

(f) review proposed legislation for agencies or entities that are not assigned to an interim committee, as provided in 5-5-223 through 5-5-228, or to the environmental quality council, as provided in 75-1-324; ~~and~~

(g) ensure that the legislative services division complies with the provisions of [sections 1 through 6];  
and

~~(g)~~(h) perform other duties assigned by law.

(2) If a question of statewide importance arises when the legislature is not in session and a legislative interim committee has not been assigned to consider the question, the legislative council shall assign the question to an appropriate interim committee, as provided in 5-5-202, or to the appropriate statutorily created committee."

**Section 11.** Section 5-12-205, MCA, is amended to read:

**"5-12-205. Powers and duties of committee.** The committee:

(1) may organize, adopt rules to govern its proceedings, and meet as often as necessary, upon the call of the presiding officer, to advise and consult with the legislative fiscal analyst;

(2) may employ and, in accordance with the rules for classification and pay adopted by the legislative council, set the salary of the legislative fiscal analyst. The legislative fiscal analyst shall serve at the pleasure of and be responsible for providing services to the committee.

(3) may exercise the investigatory powers of a standing committee under chapter 5, part 1, of this title;

(4) shall monitor the information technology policies of the department of administration with specific attention to:

(a) identification of information technology issues likely to require future legislative attention; and

(b) the evaluation of proposed information technology policy changes and the fiscal implications of the proposed changes and shall provide written responses to the department of administration communicating the committee's positions and concerns on proposed policy changes;

(5) may accumulate, compile, analyze, and provide information relevant to existing or proposed legislation on how information technology can be used to impact the welfare of the state;

(6) may prepare legislation to implement any proposed changes involving information technology; ~~and~~

~~(7) shall ensure that the legislative fiscal division complies with the provisions of [sections 1 through 6];~~

~~and~~

~~(7)(8)~~ shall, before each regular and special legislative session involving budgetary matters, prepare recommendations to the house appropriations committee and the senate finance and claims committee on the application of certain budget issues. At a minimum, the recommendations must include procedures for the consistent application during each session of inflation factors, the allocation of fixed costs, and the personal services budget. The committee may also make recommendations on other issues of major concern in the budgeting process, such as estimating the cost of implementing particular programs based upon present law."

**Section 12.** Section 5-13-203, MCA, is amended to read:

**"5-13-203. Meetings -- duties -- compensation.** (1) The committee shall:

(a) meet as often as may be necessary during and between legislative sessions to advise and consult with the legislative auditor; ~~and~~

(b) ensure that the legislative audit division complies with the provisions of [sections 1 through 6].

(2) Committee members are entitled to receive compensation and expenses as provided in 5-2-302."

**Section 13.** Section 20-25-301, MCA, is amended to read:

**"20-25-301. Regents' powers and duties.** The board of regents of higher education shall serve as regents of the Montana university system, shall use and adopt this style in all its dealings with the university system, and:

(1) must have general control and supervision of the units of the Montana university system, which is considered for all purposes one university;

(2) shall adopt rules for its own government that are consistent with the constitution and the laws of the state and that are proper and necessary for the execution of the powers and duties conferred upon it by law;

(3) shall provide, subject to the laws of the state, rules for the government of the system;

(4) shall grant diplomas and degrees to the graduates of the system upon the recommendation of the faculties and must have discretion to confer honorary degrees upon persons other than graduates upon the recommendation of the faculty of the institutions;

(5) shall keep a record of its proceedings;



(6) must have, when not otherwise provided by law, control of all books, records, buildings, grounds, and other property of the system;

(7) must receive from the board of land commissioners, from other boards or persons, or from the government of the United States all funds, income, and other property that the system may be entitled to and shall use and appropriate the property for the specific purpose of the grant or donation;

(8) must have general control of all receipts and disbursements of the system;

(9) shall appoint a president or chancellor and faculty for each of the institutions of the system, appoint any other necessary officers, agents, and employees, and fix their compensation;

(10) shall confer upon the executive board of each of the units of the system authority that may be considered expedient relating to immediate control and management, other than authority relating to financial matters or the selection of the teachers, employees, and faculty;

(11) shall confer, at the regents' discretion, upon the president and faculty of each of the units of the system for the best interest of the unit authority relating to the immediate control and management, other than financial, and the selection of teachers and employees;

(12) shall prevent unnecessary duplication of courses at the units of the system;

(13) shall appoint a certified professional geologist or registered mining engineer as the director of the Montana state bureau of mines and geology, who is the state geologist, and appoint any other necessary assistants and employees and fix their compensation;

(14) shall supervise and control the agricultural experiment station, along with any executive or subordinate board or authority that may be appointed by the governor with the advice and consent of the regents;

(15) shall adopt a seal bearing on its face the words "Montana university system", which must be affixed to all diplomas and all other papers, instruments, or documents that may require it;

(16) shall ensure an adequate level of security for data, as defined in 2-15-102, within the state university system. In carrying out this responsibility, the board of regents shall, at a minimum, address the responsibilities prescribed in 2-15-114.

(17) shall offer courses in vocational-technical education of a type and in a manner considered necessary or practical by the regents;

(18) shall ensure that the Montana university system complies with the provisions of [sections 1 through 6]."

NEW SECTION. **Section 14. Repealer.** Sections 2-15-2221, 2-15-2222, 2-15-2223, 2-15-2224, 2-15-2225, and 2-15-2226, MCA, are repealed.

5 NEW SECTION. SECTION 15. PERFORMANCE OF STRATEGIC PLAN AND PERFORMANCE MEASUREMENT  
6 FUNCTIONS. IT IS THE INTENT OF THE LEGISLATURE THAT THE FUNCTIONS REQUIRED IN [THIS ACT] BE CONDUCTED WITH  
7 EXISTING EMPLOYEES AND WITHIN EXISTING LEVELS OF FUNDING.

9            NEW SECTION. **Section 16. Codification instruction.** [Sections 1 through 6] are intended to be  
10    codified as an integral part of Title 2 chapter 7, and the provisions of Title 2, apply to [sections 1 through 6].

12 NEW SECTION. **Section 17. Effective date -- applicability.** [This act] is effective July 1, 2005, and  
13 applies to fiscal years beginning after June 30, 2005.

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